

REMARKS

Applicant has carefully reviewed the Application in light of the Final Office Action mailed November 7, 2008. At the time of the Final Office Action, Claims 1-20 were pending in the Application and they stand rejected. Applicant amends certain Claims to expedite this prosecution. The amendments to the claims are not the result of any prior art reference and, thus, does not narrow the scope of the claim. Furthermore, the amendments are not related to patentability issues and only further clarify subject matter already present. Applicant respectfully requests reconsideration of the pending claims and favorable action in this case.

Section 102 Rejection

Claims 1-7 and 9 are rejected as being anticipated by Rowley (hereinafter "Rowley"). This rejection is respectfully traversed for the followings reasons.

Independent Claims 1 is Patentable over Rowley

Applicant respectfully reminds the Examiner that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.<sup>1</sup> In addition, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claims" and "[t]he elements must be arranged as required by the claim."<sup>2</sup> In regard to inherency of a reference, "[t]he fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic."<sup>3</sup> Thus, in relying upon the theory of inherency, an Examiner must provide a basis in fact and/or technical reasoning to support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art.<sup>4</sup>

<sup>1</sup> *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987); MPEP §2131.

<sup>2</sup> *Richardson v. Suzuki Motor Co.*, 9 USPQ 2d 1913, 1920 (Fed. Cir. 1989); *In re Bond*, 15 USPQ 2d 1566 (Fed. Cir. 1990); MPEP §2131 (*emphasis added*).

<sup>3</sup> MPEP §2112 (citing *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ 2d 1955, 1957 (Fed. Cir. 1993) (*emphasis in original*)).

<sup>4</sup> MPEP §2112 (citing *Ex Parte Levy*, 17 USPQ 2d 1461, 1464 (Bd. Pat. at App. and Inter. 1990) (*emphasis in original*)).

Independent Claim 1, as amended, recites:

An apparatus comprising:

- a network interface module to connect the apparatus to a network;
- a packet capture module to intercept packets being transmitted on the network;
- an object assembly module to reconstruct flows representing objects being transmitted on the network from the intercepted packets;
- an object classification module to determine a type of content of and reconstruct objects from the flows;
- an object store module to store the objects; and
- a user interface to enable a user to search objects stored in the object store module, wherein the objects are searched based on a query, which includes search criteria used to identify selected objects that match the search criteria.

No reference of record, including *Rowley*, offers an architecture in which “...*the objects are searched based on a query, which includes search criteria used to identify selected objects that match the search criteria.*” This is because *Rowley* is a simple capturing configuration, which fails to search objects in their architecture. Nothing in *Rowley* allows for searching: much less searching objects based on a query that includes the search criteria, as outlined by Independent Claim 1. [For support in the Specification, the Examiner can review (for example) page 15 of the Application.] These limitations are provided for in Independent Claim 1, but no reference of record includes such elements.

For at least these reasons, Independent Claims 1, 12, and 17 are allowable over the cited reference. Additionally, the corresponding dependent claims from these Independent Claims are also patentably distinct for analogous reasons.

Section 103 Rejection

Claim 8 is rejected as being unpatentable over *Rowley* and further in view of *Saulpaugh et al.* (hereinafter "*Saulpaugh*"). Claim 8 is dependent on Claim 1 and is thus allowable for at least the same rationale. Claims 10-11 are rejected as being unpatentable over *Rowley* and further in view of *Barnett et al.* (hereinafter "*Barnett*"). Claims 12-14 and 17-19 are rejected as being unpatentable over *Rowley* in view of *Barnett*. This rejection is now moot in light of the §102 analysis above. More specifically, no reference provides the searching capabilities in the context of Independent Claim 1.

For at least these reasons, all of the pending claims have been shown to be allowable as they are patentable over the references of record. Notice to this effect is respectfully requested in the form of a full allowance of these claims.

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CONCLUSION

Applicant has now made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for all other reasons clear and apparent, Applicant respectfully requests reconsideration and allowance of the pending claims.

The large entity fee of \$810 for filing this Request for Continued Examination is being paid concurrently herewith via the attached Credit Card Payment Form (PTO-2038).

If there are matters that can be discussed by telephone to advance prosecution of this application, Applicant invites the Examiner to contact Thomas J. Frame at (214) 823-1241.

Respectfully submitted,

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